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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6704 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MEHSANA DISTRICT CENTRAL CO OP BANK LTD.

Versus

BR KATARA OR HIS SUCCESSOR IN OFFICE

Appearance:

1. Special Civil Application No. 6704 of 1998

MR TUSHAR MEHTA for Petitioner No. 1-2

MR AD OZA, GOVT. PLEADER for Respondent No. 1-2,4,6

MR SK JHAVERI for Respondent No. 3,5

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 09/08/2001

ORAL JUDGEMENT

What is challenged in this petition under Article 226 of the Constitution is the show cause notice dated 6.8.1998 (Annexure "B") issued by the Registrar of Cooperative Societies, Gujarat State calling upon petitioner No. 2 to show cause why petitioner No. 2 should not be removed from the office of Chairman of Mehsana District Central Cooperative Bank Ltd., Mehsana

under Section 76B of the Gujarat Co-operative Societies Act, 1961 (hereinafter referred to as `the Act').

2. Various contentions are raised in the petition and Mr Vakharia, learned counsel appearing for the petitioners is keen to press those contentions including the contention to the effect that respondent No. 1 has no authority or jurisdiction to initiate any proceeding under Section 76B of the Act against the petitioner and also the contention on the ground of mala fides.

3. However, this Court does not propose to go into any of such contentions as only a show cause notice is issued and no order adverse to the petitioner is passed so far. In fact, the petitioner has been given an opportunity to show cause and, therefore, it is open to the petitioner to raise all available contentions including the contention about the lack of authority or jurisdiction and the contention on the ground of mala fides.

4. At this stage, Mr Vakharia for the petitioners submits that in case any order adverse to petitioner No. 2 is passed by the authorities and if the same is implemented immediately, the said petitioner will not have any opportunity of praying for effective interim relief and, therefore, the some protection may be granted in case any order adverse to petitioner No. 2 is passed in the above proceedings.

The learned Government Pleader opposes the above request.

5. In view of the fact that this Court has not permitted Mr Vakharia to argue even the contention about lack of jurisdiction of the authority in initiating such proceedings, the Court considers it to be just and proper to direct that in case any order adverse to petitioner No. 2 is passed pursuant to the impugned show cause notice dated 6.8.1998, the authority shall not implement the same for a period of two weeks from the date of despatch of the order by RPAD.

6. Subject to the aforesaid direction, the petition is dismissed only on the ground that it is premature as it is against a show cause notice only.

Rule is discharged with no order as to costs.

(M.S. Shah, J.)

sundar/-